EXHIBIT 8

Page 1

IN THE UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA

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HAPAG-LLOYD AKTIENGESELLSCHAFT,
Plaintiff,

-against-

14 Civ. 9949

U.S. OIL TRADING LLC, O.W. BUNKER GERMANY GMBH, O.W. BUNKER & TRADING A/S, ING BANK N.V., CREDIT AGRICOLE S.A.,

Defendants.

-----x
IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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U.S. OIL TRADING LLC,
Plaintiff,

-against-

Case No. 15-6718

M/V VIENNA EXPRESS, her tackle, boilers, apparel, furniture, engines, appurtenances, etc., in rem, and M/V SOFIA EXPRESS, her tackle, boilers, apparel, furniture, engines, appurtenances, etc., in rem, Defendants.

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January 7, 2016 12:00 p.m.

Videoconference Deposition of THOR
NIELSEN, held at the offices of Seward & Kissel
LLP, One Battery Park Plaza, New York, New York,
before Roberta Caiola, a Shorthand Reporter and
Notary Public within and for the State of New
York.

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4	as Security Agent:	4	Nielsen Mr. Heilig 63	
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7	CELINDA J. METRO, ESQ.	7	Ms. Metro 112	
8	One Battery Park Plaza	8	Ms. Venezia 115	
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12	CLYDE & CO. US LLP	12	Exhibit 1 Notice of Deposition in case	32
13	JOHN KEOUGH, ESQ.	13	14 CV 9949	
14	CASEY BURLAGE, ESQ.	14	Exhibit 2 Notice of Deposition in case	32
15	405 Lexington Avenue	15	15-6718, U.S. Oil Trading	
16	New York, New York 10174	16	against VIENNA EXPRESS	
17	(Present via videoconference)	17	Exhibit 3 U.S. Oil Trading's production	39
18		18	in the 9949 action, Bates	
19	Attorneys for Hapag-Lloyd Aktiengesellschaft		numbered USOT 000001 through	
20	and COSCO Defendants:	20	USOT 000347	4.0
21	FREEHILL HOGAN & MAHAR LLP	21	Exhibit 4 Production made by U.S. Oil	40
22	GINA M. VENEZIA, ESQ.	22	Trading in the VIENNA EXPRES	S
23	MICHAEL DEHART, ESQ.	23	matter, Case Number 15-6718,	
24	80 Pine Street	24	Bates numbered USOT 000001	
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10	Attorneys for O.W. Bunker Germany GMBH:	10	U.S. Oil Trading	
11	HILL RIVKINS LLP	11	(Original exhibits retained by the Court	
12	JUSTIN M. HEILIG, ESQ.	12	Reporter to accompany the transcript)	
13	45 Broadway, Suite 1500	13		
14	New York, New York 10006-3739	14		
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Thor Nielsen (1-7-16) A. Sorry, can you say that again? Q. Sure. Which individuals files were collected? MR. KEOUGH: Objection to the form. A. We have a file that we call our bunker files. They are essentially all the movement on our docks and each movement has is own file, and so all the documents related to cach movement are contained in that file. So the information that I pulled was the six files the information that I pulled was the six files the trelated to O.W. Bunker. Q. Were those organized by each fuel delivery to each vessel involved in these cases? A. Yeah, they're dated, so each file thas a date and that's the date of delivery. Q. Were emails and instant messages also searched in connection with the production in this matter? A. Yes. Q. What were the criteria used to determine which emails and instant messages should be produced? A. The criteria for that was any emails or IMs that related to O.W. Bunker. Page 27 Thor Nielsen (1-7-16) Q. Were search terms employed or did you look at all of the emails, how was it done? A. I did not do those myself. The person that would have had those interactions with them did those and then provided them to me. Q. Was that an employee at U.S. Oil? A. He is in the marketing group and would report to Cameron Proudfoot, the VP of supply and marketing. Q. Who is Mr. Weber? Q. Who is marketing. Q. What department does he work in at 16 U.S. Oil? A. He is in the marketing group and would report to Cameron Proudfoot, the VP of supply and marketing. Q. Vou mentioned that Mr. Weber was a logistics planner. What do you understand that job to include, what responsibilities of in this matter? A. Well, one of his responsibilities is he corodinates all of the deliveries and		Page 26		Page 28
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	Page 38		Page 40
1	Thor Nielsen (1-7-16)	1	Thor Nielsen (1-7-16)
2	You can answer.	2	that have been numbered USOT 000001 through 347.
3	A. You know, I again am not a lawyer,	3	I'm also going to mark at this time the
4	but what I see the bunker receipt as is like a	4	production made by U.S. Oil Trading in the
5	bill of lading, it is the main billing document.	5	VIENNA EXPRESS matter, that's case number
6	Q. Did you issue any invoice to the	6	15-6718, I'll mark that as Exhibit 4. Those
7	vessel interests, to the vessels or to their	7	documents have been numbered USOT 000001 through
8	owners or charterers after the fuel was	8	107.
9	delivered?	9	(Nielsen Exhibit 4, Production made
10	A. No, we did not.	10	by U.S. Oil Trading in the VIENNA EXPRESS
11	·	11	matter, Case Number 15-6718, Bates numbered USOT
12	Q. Who did you issue your invoices to? A. We issued them to O.W. Bunker &	12	000001 through USOT 000107, marked for
13	I	13	identification.)
	Trading AG.	14	,
14	Q. Did you receive any purchase order	15	Q. Do you have those document
15	confirmations from O.W. Bunker & Trading I think	16	productions there with you in Washington, sir? A. I do.
16	it's A/S?		
17	A. My recollection is that those came	17	Q. To short circuit some of this. The
18	from the USA entity.	18	documents that have been numbered 1 through 107
19	Q. You mentioned your understanding of	19	that we've marked as Exhibit 4, are those a
20	the contractual relationship and other documents	20	subset of the documents that were produced in
21	that might have been signed in your files.	21	the 9949 case?
22	Is that the extent of the	22	MR. KEOUGH: Objection to the form.
23	relationship with the vessels or their owners or	23	Q. In other words, are you generally
24	charterers?	24	familiar that the documents that were produced
25	MR. KEOUGH: Objection to the form	25	as Exhibit 4 related to the VIENNA EXPRESS?
	Page 39		Page 41
1	Thor Nielsen (1-7-16)	1	Thor Nielsen (1-7-16)
2	of the question.	2	A. Yes, I am.
3	A. I'm not aware of any others.	3	Q. And do you know, are there any
4	Q. Topic 2 requests U.S. Oil's	4	documents in this production that are not in the
5	understanding of the communications had with the	5	production that was marked as Exhibit 3?
6	vessels or the vessel interests in this action.	6	A. I haven't compared them, so I don't
7	Do you see that topic?	7	know specifically. They look similar.
8	A. I do.	8	Q. I believe that's the case, and I
9	Q. Were there communications between	9	don't know if counsel for U.S. Oil Trading can
10	U.S. Oil and the vessels, or their owners or	10	confirm that.
11	charterers?	11	MR. KEOUGH: I believe so, but I'm
12	A. Just to the extent of the	12	not here to testify. Yes, I think that's
13	documentation that has been signed.	13	correct.
14	Q. We can put Exhibits 1 and 2 aside	14	MR. MALONEY: Okay.
15	for now. I have a couple of questions about the	15	Q. I'm going to focus on the documents
16	documents produced by U.S. Oil Trading in this	16	in Exhibit 3, which I understand to contain
17	action.	17	documents concerning the VIENNA EXPRESS and the
18	MR. MALONEY: What I would like to	18	other vessels.
19	do is mark U.S. Oil Trading's production in the	19	MR. KEOUGH: Excuse me Brian, just
20	9949 action as Exhibit Number 3.	20	so it's clear. We believe that the documents
21	(Nielsen Exhibit 3, U.S. Oil	21	numbered 1 through 107 are the same in Exhibits
22	Trading's production in the 9949 action, Bates	22	3 and 4.
23	numbered USOT 000001 through USOT 000347, market	d 23	MR. MALONEY: Okay. Thanks for
24	for identification.)	24	that clarification.
25	MR. MALONEY: Those are documents	25	Q. I want to ask you to take a look at

Page 50 Page 52 Thor Nielsen (1-7-16) 1 1 Thor Nielsen (1-7-16) 2 delivered to O.W.? 2 Q. Do you know in the case of the SANTA ROBERTA whether that is a barge that was 3 A. It was definitely delivered to 3 4 O.W.. Whether it was done by paper or 4 owned by U.S. Oil or by some third party? 5 electronically, I do not recall. 5 A. I don't understand your question. 6 6 Q. There's a box at the bottom that Q. Did you use a barging service like 7 7 a Harley Marine or some other company to deliver refers to security interest, and it mentions 8 Credit Agricole. Do you have any information 8 fuel, do you have details on that? 9 about that? 9 A. Yes, I do. 10 MR. KEOUGH: Objection to the form. 10 Q. So the record is clear. You do use Yeah. That is -- the account is 11 third parties sometimes to deliver fuel? 11 12 our main account at Wells Fargo that it is being 12 A. The vessels -- the vessel is 13 deposited into. Credit Agricole has disclaimed 13 controlled by us. We have a, I think it's a 14 any rights to these receivables and they are not 14 five-year term with Olympic Tug & Barge, they 15 operate the vessel but we control it. currently funding under the facility related to 15 16 these receivables. They are specifically 16 Q. I want to turn to pages 3 and 4. 17 Could you take a look at that? excluded. 17 18 Q. At the bottom of the page there are 18 A. I have it. 19 some designations. Do you know what BWTD refers 19 O. Have you seen this document before? Yes. This is one of the documents 20 to? 20 A. 21 A. Yeah, that is -- B refers to a 21 that's in our bunker files. 22 billing document, W is Washington and the D --22 Q. Is this an example of the kinds of 23 each one of those has a designation 23 purchase order confirmations you would receive 24 from O.W. Bunker USA in connection with these specifically, but it's basically referencing 24 25 that this is a movement in Washington across the 25 fuel deliveries? Page 51 Page 53 1 Thor Nielsen (1-7-16) 1 Thor Nielsen (1-7-16) 2 dock. 2 A. Yes, it is. 3 There's a customer number below 3 There's a purchase order number 4 issued on this document. Is that something that that. Is that the customer number for O.W. 4 5 5 you would need for your files or is that an O.W. Bunker? Bunker purchase order number? б A. It is. 6 7 Q. Back up a little bit. A little 7 A. That is their number. We don't --8 ways up the page it says, "Past due accounts are 8 to be honest with you, we may or may not have subject to interest." 9 9 used that number in our system; but it is their 10 10 Is there any agreement about that number, not ours. 11 between U.S. Oil and O.W. Bunker? 11 Q. The purchase order includes the 12 A. Yeah, that's included in our credit 12 quantity and price of the fuel that O.W. Bunker agreement. In other words, the credit 13 USA is purchasing? 13 14 application that they complete allows us to 14 MR. KEOUGH: Objection to the form 15 charge interest on past due. 15 of the question, misstates his testimony. Q. Are there any other agreements, 16 A. It is the quantity and price of the 16 aside from the credit application or the credit 17 product that we are selling to O.W. Bunker & 17 18 agreement, with O.W. Bunker and U.S. Oil? 18 Trading AG. 19 A. I'm not aware of any other 19 How this comes to us is -- they're 20 20 one of the entities underneath the Danish court, agreement. 21 The columns in this invoice, do you 21 so in all of these dealings we are dealing with O. know what "BETSY" refers to under that second 22 22 our customer. 23 column? 23 Q. At the bottom of the purchase order 24 A. Yeah, that is our barge that we use 24 it's signed off "Kind Regards Kai Zhou." Do you 25 to deliver the marine fuel to the vessels. 25 see that, sir?

1 Thor Nielsen (1-7-16) 2 go. 3 MR. MALONEY: All right. 4 BY MR. MALONEY: 1 Thor Nielsen (1-7-16) 2 Q. So do you know if there were hedging operations at U.S. Oil that middle and the mitigated or offset any exposure to O.	e O.W. at, so orked r. Weber
2 A. I do. 3 Q. Would you agree with me that those 4 phone numbers there for his direct line and his 5 cell phone are U.S. numbers? 6 A. They look like it. 7 Q. Do you see that his office email 8 address is houston@owbunker.com? 9 A. I see that. 10 Q. Do you know if U.S. Oil received 11 any purchase order confirmations from any O.W. 12 Bunker entity, other than O.W. Bunker USA Inc.? 13 A. My recollection is that these all 14 came from O.W. Bunker USA. 15 Q. Do you know a person by the name of 16 Mads Buchwald? 17 A. The name sounds familiar, but I 18 don't I don't recall it. 19 MR. MALONEY: I think it's a good 20 time to take a 5-minute break, if that's okay with you? 21 MR. KEOUGH: Sure. 23 (Short recess taken.) A. We do, but we do not do any for what I would refer to as the bottom of the bedging operations at U.S. Oil that mitigated or offset any exposure to O.	e O.W. at, so orked r. Weber
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3 MR. MALONEY: All right. 3 hedging operations at U.S. Oil that mi 4 BY MR. MALONEY: 4 mitigated or offset any exposure to O.	
4 BY MR. MALONEY: 4 mitigated or offset any exposure to O.	
h () Mr Nieleon Linet horre a handful h Dunlyan's name armant in this	√.
7 3	
6 of topics to cover. We talked about the credit 6 A. No, there would not be.	. a
7 department, the tax and treasury services 7 Q. When was the first time that	
8 department and the individuals in that. 8 Oil learned of financial distress at O.V	
9 I believe you mentioned earlier 9 Bunker?	
that Mr. Weber reported to Mr. Proudfoot in the sales and trading department, is that correct? A. When it was announced. O. So sometime in early Novem	6
8 11 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	er or
12 A. The supply and marketing 13 department, yeah. 12 2014? 13 A. Maybe late October, early No.	- 1
14 Q. Could you describe, what is the 14 Q. Do you have any personal	
15 supply and marketing department? 15 recollections of hearing about it?	
16 A. The supply and marketing 16 A. I recall hearing about a rogue	
17 department, that group is responsible for crude 17 trader and some potential issue with h	
18 acquisitions, as well as the sale of all of our 18 take a hit on their balance sheet, but it	vember.
19 products. 19 seem as though there was it wasn't s	vember.
20 Q. How large is that department? 20 that was going to knock them off their	vember. ving to lidn't
21 A. Currently I think there's ten 21 then two weeks later you heard the back	vember. ving to lidn't omething
22 people in that department, and there's 22 Q. Did you have any conversation	vember. ving to lidn't omething feet, but
23 one person that they use as a contracted 23 Mr. Proudfoot after hearing about the	ving to didn't omething feet, but news.
24 employee from time to time. 24 A. I'm sure we talked about it, a	ving to didn't omething feet, but news.
Q. Was Mr. Weber responsible for the 25 our concern about it. My recollection	ving to didn't omething feet, but news. ns with ews?

	Page 66		Page 68
1	Thor Nielsen (1-7-16)	1	Thor Nielsen (1-7-16)
2	behalf of U.S. Oil in the action commenced in	2	MR. HEILIG: Sure. Will you read
3	Washington and subsequently transferred to New		back the question please.
4	York, the docket number is 52-2.	4	(Question read.)
5	MR. HEILIG: We'll mark this as	5	MR. KEOUGH: Objection.
6	Exhibit Number 7.	6	A. My understanding of this is that
7	(Nielsen Exhibit 7, Declaration,	7	or I guess my look at this is that O.W. Bunker
8	Docket No. 52-2, marked for identification.)	8	was essentially acting as a broker or trader in
9	MR. KEOUGH: It's before the	9	this market, they don't own anything here, and
10	witness.	10	we delivered the product to the vessel.
11	Q. Mr. Nielsen, do you recall	11	Q. Did U.S. Oil have any
12	executing this document?	12	communications with Hapag in which Hapag
13	A. I do.	13	indicated that one or more O.W. entities were
14	Q. Did you prepare this document or	14	acting as agents of Hapag-Lloyd with respect to
15	was this prepared for you for your review and	15	these transactions?
16	execution?	16	MR. KEOUGH: Objection to the form.
17	A. It was prepared for me and I	17	A. Can you repeat the question again,
18	executed it.	18	please?
19	Q. But you reviewed its contents	19	Q. Sure. Did U.S. Oil have any
20	before doing so?	20	communications with Hapag-Lloyd in which
21	A. I did.	21	Hapag-Lloyd indicated that one or more O.W.
22	Q. And they're accurate, to the best	22	entities were acting as agents of Hapag for
23	of your knowledge?	23	purposes of these transactions and bunker
24	A. It is.	24	purposes of these transactions and bunker purchases?
25	Q. Let's take a look at paragraph 17,	25	MR. KEOUGH: Same objection.
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1	Page 67	1	Page 69
1	Thor Nielsen (1-7-16)	1	Thor Nielsen (1-7-16)
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	Page 70		Page 72
1	Thor Nielsen (1-7-16)	1	Thor Nielsen (1-7-16)
2	MR. KEOUGH: It's in front of the	2	were with O.W. USA; isn't that correct?
3	witness.	3	MR. KEOUGH: Objection to the form.
4	Q. Mr. Nielsen, do you recognize this	4	A. That's correct.
5	document?	5	Q. Okay. We won't actually have to
6	A. I do.	6	look at the document, so we'll save some time.
7	Q. On page 8, is that your signature	7	Earlier Mr. Maloney asked you some
8	under the verification?	8	questions about the instant messenger
9	A. It is.	9	communications. Just one follow-up question.
10	Q. So you verified the accuracy of the	10	Are those communications, are they capable of
11	contents of this pleading?	11	being produced in the native or an original
12	A. Correct.	12	format?
13	Q. Mr. Nielsen, let's take a look at	13	A. I don't know the answer to that.
14	paragraph 9 on page 2. Do you see paragraph 9,		Q. Okay. Do you know who would know
15	Mr. Nielsen?	15	the answer to that at U.S. Oil?
16	A. I do.	16	A. Either our IT guys, Lee Weber may
17	Q. What's the basis for this	17	know.
18	statement?	18	Q. Earlier we also looked at purchase
19	A. The basis for the statement is that	19	order confirmations issued to U.S. Oil with
20	we issued those sales authorizations and	20	respect to these transactions, so why don't we
21	confirmation related to the sale of marine fuel	21	take a look at one of them. If you would look
22	to O.W. Bunker.	22	at USOT Document 110?
23	Q. Mr. Nielsen, let's go back quickly	23	MS. METRO: This would be
24	to Exhibit 7, your declaration. Paragraph 15 is	24	Exhibit 3?
25	what I want to look at.	25	MR. HEILIG: This would be part of
		23	
			Page 73
1	Page 71	1	Page 73
1	Thor Nielsen (1-7-16)	1	Thor Nielsen (1-7-16)
2	Thor Nielsen (1-7-16) A. Okay.	2	Thor Nielsen (1-7-16) Exhibit 3.
2	Thor Nielsen (1-7-16) A. Okay. Q. Paragraph 15 says:	2	Thor Nielsen (1-7-16) Exhibit 3. A. Okay.
2 3 4	Thor Nielsen (1-7-16) A. Okay. Q. Paragraph 15 says: "USOT negotiated its agreements	2 3 4	Thor Nielsen (1-7-16) Exhibit 3. A. Okay. Q. Have you seen this document before,
2 3 4 5	Thor Nielsen (1-7-16) A. Okay. Q. Paragraph 15 says: "USOT negotiated its agreements with O.W. Denmark for the subject deliveries	2 3 4 5	Thor Nielsen (1-7-16) Exhibit 3. A. Okay. Q. Have you seen this document before, Mr. Nielsen, or one like it?
2 3 4 5 6	Thor Nielsen (1-7-16) A. Okay. Q. Paragraph 15 says: "USOT negotiated its agreements with O.W. Denmark for the subject deliveries bunkers by USOT to the M/V VIENNA EXPRESS an	2 3 4 5 d 6	Thor Nielsen (1-7-16) Exhibit 3. A. Okay. Q. Have you seen this document before, Mr. Nielsen, or one like it? A. Yes.
2 3 4 5 6 7	Thor Nielsen (1-7-16) A. Okay. Q. Paragraph 15 says: "USOT negotiated its agreements with O.W. Denmark for the subject deliveries bunkers by USOT to the M/V VIENNA EXPRESS an M/V SOFIA EXPRESS at USOT's principal place of	2 3 4 5 d 6	Thor Nielsen (1-7-16) Exhibit 3. A. Okay. Q. Have you seen this document before, Mr. Nielsen, or one like it? A. Yes. Q. Do you see that this document is
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	Page 74		Page 76
1	Thor Nielsen (1-7-16)	1	Thor Nielsen (1-7-16)
2	October 1st, that the terms of the sales	2	authority to bind us?
3	agreement were finalized prior to the physical	3	Q. Yes.
4	delivery of the bunker fuel to the vessel?	4	A. They have the authority to sign
5	MR. KEOUGH: Objection to the form.	5	this document, which is the main document that
6	A. I would say that certainly the	6	we viewed in billing.
7	quantities and price were determined.	7	Q. It's their responsibility to
8	Q. Going back to Exhibit 8,	8	collect a signature on the document to complete
9	Mr. Nielsen, which is the Verified Complaint.	9	the transaction?
10	Let's take a look at paragraph 10. Have you	10	A. That's correct.
11	read that paragraph, Mr. Nielsen?	11	Q. Do they review any of the terms of
12	A. Yes.	12	the bunker delivery note with the vessel's
13	Q. Okay. I'll paraphrase the first	13	officer at the time of signature?
14	part, but it essentially says that U.S. Oil	14	A. I don't have actual knowledge of
15	delivered approximately 2,700 metric tons of	15	that.
16	bunker fuel to the VIENNA EXPRESS at the Port of	_	Q. Well, I'm asking you as the court
17	Tacoma on October 18th, and then "which the	17	representative of U.S. Oil?
18	vessel accepted and acknowledged by stamping	18	A. I don't know.
19	U.S. Oil Trading's bunker delivery receipt for	19	Q. Are they instructed to review the
20	the delivery."	20	terms of the bunker delivery note with the
21	Mr. Nielsen, who physically	21	receiving vessel at the time of execution?
22	presented the bunker delivery note to the	22	A. They would have been instructed to
23	vessel?	23	go through the paperwork and provide it to them,
24	A. It would have been the the	24	so I would assume that they would have discussed
25	documentation would have been there and it would	25	these things.
	De 22 75		
	Page 75		Page 77
1		1	
1 2	Thor Nielsen (1-7-16)		Thor Nielsen (1-7-16)
			Thor Nielsen (1-7-16)
2	Thor Nielsen (1-7-16) have been presented by the barge representative.	2	Thor Nielsen (1-7-16) Q. Are there any policies or
2	Thor Nielsen (1-7-16) have been presented by the barge representative. There's a packet that is delivered to each of	2 3	Thor Nielsen (1-7-16) Q. Are there any policies or guidelines, written instructions directing the
2 3 4	Thor Nielsen (1-7-16) have been presented by the barge representative. There's a packet that is delivered to each of the vessels.	2 3 4	Thor Nielsen (1-7-16) Q. Are there any policies or guidelines, written instructions directing the bargeman to go over the terms of the bunker
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2 3 4 5 6	Thor Nielsen (1-7-16) have been presented by the barge representative. There's a packet that is delivered to each of the vessels. Q. Okay. That's delivered by a bargeman who's present at the time of the	2 3 4 5 6	Thor Nielsen (1-7-16) Q. Are there any policies or guidelines, written instructions directing the bargeman to go over the terms of the bunker delivery note with the receiving vessel at the time of execution? A. I don't know for sure. Q. Is it U.S. Oil's position that the
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Thor Nielsen (1-7-16) have been presented by the barge representative. There's a packet that is delivered to each of the vessels. Q. Okay. That's delivered by a bargeman who's present at the time of the physical delivery? A. Yes. Q. I believe you said earlier that the barges are on a five-year charter. Olympic tug provides the personnel, but you control or operate the barge, is that correct? MR. KEOUGH: Objection to the form. A. Correct. Q. So would it then be an employee of Olympic Tug & Barge who's presenting the documents to the receiving vessel? A. Correct. Q. Does that bargeman have authority to bind U.S. Oil, or to negotiate or alter contractual terms on behalf of U.S. Oil? MR. KEOUGH: Objection. Do you	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Thor Nielsen (1-7-16) Q. Are there any policies or guidelines, written instructions directing the bargeman to go over the terms of the bunker delivery note with the receiving vessel at the time of execution? A. I don't know for sure. Q. Is it U.S. Oil's position that the language on the bunker delivery notes alone is sufficient to create a maritime lien against these vessels? MR. KEOUGH: Objection to the form; calls for a legal conclusion. A. I'm not an attorney, but that's what we think. Q. I'm sorry, were you going to complete that thought or was that the end of your answer? A. That was the end of my answer. Q. Okay. So then do I understand correctly U.S. Oil's position that the relationships among the vessel interests in O.W.

Page 86 Page 88 1 Thor Nielsen (1-7-16) 1 Thor Nielsen (1-7-16) 2 2 MR. KEOUGH: Objection to the form. that there's an approved transaction in 3 connection with the customer that's listed. 3 A. In order to be paid from O.W. 4 Bunker, yes, we had to submit an invoice and the Q. Okay. I'm looking at the sales 4 5 authorization on Bates page 5. If you look down 5 bunker delivery receipt. 6 6 Are you familiar with the term kind of the top third of the page you see it 7 says "Terms, wire transfer due 30 days from 7 Marpol, M-a-r-p-o-l? 8 COM." Do you see that? 8 A. I've heard it, but I'm not familiar 9 A. Yes. 9 with it. 10 10 Q. What is COM? Q. I am assuming that in your realm of responsibility, U.S. Oil's compliance with 11 A. I think that's the money. The wire 11 is due 30 days from the date of delivery, and environmental or pollution regulations does not 12 12 13 I'm not sure if that COM stands for commencement 13 fall within your purview? of delivery or not, but it is 30 days from the 14 MR. KEOUGH: Objection. 14 date of delivery. 15 15 A. We have a -- we have an 16 Q. Okay. Underneath that same line we 16 environmental manager on staff. 17 see "credit check required" and then there's 17 Who is that individual? 18 "yes," do you see that? His name is Ty Daub. 18 A. 19 A. I do. 19 Q. Ty, say again? 20 What does that mean? Daub, D-a-u-b. Q. 20 A. 21 A. That means that the credit check Do you, Mr. Nielsen, have an 21 had already been done in connection with O.W. understanding one way or another whether U.S. 22 22 Bunker & Trading A/S. Oil is required by environmental and pollution 23 23 Q. That credit check was the process regulations to issue a bunker delivery receipt 24 24 you testified to earlier today? 25 25 for every bunker supply it provides within U.S. Page 87 Page 89 Thor Nielsen (1-7-16) 1 1 Thor Nielsen (1-7-16) 2 A. Correct. 2 waters? 3 At the time of these transactions, 3 MR. KEOUGH: Objection to the form. 4 did U.S. Oil have a general standard terms and 4 A. I am not. conditions that applied to all bunker 5 5 If you can turn to Bates pages 40, transactions that it engaged in? 41 and 42 please. For the record, you'll see 6 6 MR. KEOUGH: Objection to the form. 7 7 that that is an email from a Dorit Niemeyer, 8 A. We did not. I don't think any 8 D-o-r-i-t, N-i-e-m-e-y-e-r, with an email 9 9 general terms and conditions were issued in address at hlag.com, which is Hapag, and it's 10 10 sent to Mr. Niemeyer himself and two individuals connection with this. 11 Q. If you turn now to the purchase 11 who have email addresses at owbunker.de, do you 12 order confirmation from OWB to U.S. Oil, which 12 see that? 13 is Bates pages 3 and 4. I'm going to direct 13 14 your attention to Bates page 4, the fourth 14 U.S. Oil is not copied on this Q. 15 paragraph down where it begins: 15 communication, correct? 16 "Please forward invoice and 16 They are not. 17 Did U.S. Oil in the ordinary delivery receipts duly signed and stamped by 17 Q. 18 relevant vessels, master/chief engineer right course, meaning not in connection with this 18 19 after completion of bunkering." 19 litigation but in the ordinary course, did U.S. 20 Oil receive the document, the email that is Do you see that statement? 20 21 Right. 21 depicted in Bates pages 40-42? A. MR. KEOUGH: Objection to the form. 22 Q. Is it a fair statement that in 22 23 order to obtain payment from O.W., U.S. Oil 23 A. 24 needed to tender to O.W. a completed and signed 24 Q. Do you know who the individuals are 25 bunker delivery receipt from the vessels? 25 with the email addresses reflected on page 40

	Page 90		Page 92
1	Thor Nielsen (1-7-16)	1	Thor Nielsen (1-7-16)
2	@owbunker.de? I'm not asking you to guess, just	2	208 through 210. For the record, that's an
3	if you know?	3	email communication from Lukas Gaus at Hapag to
4	A. I do not.	4	two email addresses, with the email address
5	Q. If you turn to Bates pages 43, 44	5	@owbunker.de, regarding the SEASPAN HAMBURG.
6	and 45. For the record, that is an O.W. Bunker	6	Do you see that Mr. Nielsen, at the
7	sales order confirmation from O.W. Bunker	7	top?
8	Germany with respect to the VIENNA EXPRESS. Do		A. I do.
9	you see that?	9	O. Did U.S. Oil receive this document
10	A. I do.	10	in the ordinary course with respect to the
11	Q. Did U.S. Oil receive this document	11	SEASPAN HAMBURG?
12	in the ordinary course of these transactions?	12	MR. KEOUGH: Objection.
13	A. No, it did not.	13	A. No.
14	Q. Okay. Thanks. Before we move on,	14	Q. Then flip to Bates page 211. The
15	turn to Bates page in the stack 94, 95 and 96,	15	sales order confirmation from O.W. Bunker
16	which for the record I'll describe in general is	16	Germany with respect to the SEASPAN HAMBURG.
17	an email from Hapag regarding the SOFIA EXPRESS	17	Did U.S. Oil receive this document
18	to two individuals with email addresses at	18	in the ordinary course with respect to the
19	owbunker.de, do you see that?	19	SEASPAN HAMBURG?
20	A. I do.	20	A. No. Can you pick up Exhibit 8,
21	Q. The same questions as before. Did	21	which was the Verified Complaint.
22	U.S. Oil receive this email communication in the	22	MR. KEOUGH: The witness has it.
23	ordinary course with respect to the SOFIA	23	Q. Can you turn to paragraph 8. Take
24	EXPRESS?	24	a moment to read that paragraph to yourself,
25	MR. KEOUGH: Same objection.	25	please. What is the basis for the statement
	Page 91		Page 93
1	Thor Nielsen (1-7-16)	1	Thor Nielsen (1-7-16)
2	A. We did not.	2	that:
3	Q. Just so we can be complete with	3	"On or about October 15, 2014, the
4	these, go to Bates pages 152 through 154. For	4	Owners and/or Operators and/or Charterers and/or
5	the record, that is an email from a Lukas,	5	Agents of the M/V VIENNA EXPRESS entered into an
6	L-u-k-a-s, Gaus, G-a-u-s, at Hapag to two email	6	agreement with brokers O.W. Bunker & Trading A/S
7	addresses with the address @owbunker.de	7	OWB to arrange for the delivery of bunker fuel
8	concerning the SANTA ROBERTA.	8	to the VIENNA EXPRESS at Tacoma on or about
9	Do you see that, Mr. Nielsen?	9	October 18th"?
10	A. I do.	10	MR. KEOUGH: Objection to the form.
11	Q. The same question. Did U.S. Oil	11	You can answer.
12	receive this email communication in the ordinary	12	A. What I was saying here is that O.W.
13	course with respect to the SANTA ROBERTA?	13	Bunker was acting as a broker in this market
14	MR. KEOUGH: Same objection.	14	because they don't deliver to the vessels, we
15	A. No, we did not.	15	deliver to the vessels, and so they were acting
10			
16	Q. If you turn to Bates page 155,	16	as an agent for the VIENNA EXPRESS.
	Q. If you turn to Bates page 155, which is the sales order confirmation from O.W.	16 17	as an agent for the VIENNA EXPRESS. Q. Let's break that apart. First off,
16			-
16 17	which is the sales order confirmation from O.W.	17	Q. Let's break that apart. First off,
16 17 18	which is the sales order confirmation from O.W. Bunker Germany to Hapag concerning the SANTA	17 18	Q. Let's break that apart. First off, when you talk about OWB not actually being
16 17 18 19	which is the sales order confirmation from O.W. Bunker Germany to Hapag concerning the SANTA ROBERTA.	17 18 19	Q. Let's break that apart. First off, when you talk about OWB not actually being involved in the physical delivery to vessels.
16 17 18 19 20	which is the sales order confirmation from O.W. Bunker Germany to Hapag concerning the SANTA ROBERTA. Did U.S. Oil receive this document	17 18 19 20	Q. Let's break that apart. First off, when you talk about OWB not actually being involved in the physical delivery to vessels. Did USOT have an understanding as
16 17 18 19 20 21	which is the sales order confirmation from O.W. Bunker Germany to Hapag concerning the SANTA ROBERTA. Did U.S. Oil receive this document in the ordinary course with respect to this	17 18 19 20 21	Q. Let's break that apart. First off, when you talk about OWB not actually being involved in the physical delivery to vessels. Did USOT have an understanding as to whether O.W. owned or operated vessels
16 17 18 19 20 21 22	which is the sales order confirmation from O.W. Bunker Germany to Hapag concerning the SANTA ROBERTA. Did U.S. Oil receive this document in the ordinary course with respect to this vessel?	17 18 19 20 21 22	Q. Let's break that apart. First off, when you talk about OWB not actually being involved in the physical delivery to vessels. Did USOT have an understanding as to whether O.W. owned or operated vessels themselves, the vessels that were to be